

ADVISORY OPINION 93-018

Any advisory opinion rendered by the registry under subsection (1) or (2) of this section may be relied upon only by the person or committee involved in the specific transaction or activity with respect to which the advisory opinion is required. KRS 121. 135(4).

October 5, 1993

Hon. Stephen G. Horner, Treasurer
Jefferson Democratic Executive Committee
2504 Goldsmith Lane
Louisville, Kentucky 40218-1021

Dear Mr. Horner:

Thank you for contacting the Registry. Based on all the information you have provided, including a copy of the trust agreement, the facts to your question can be stated as follows:

Officers of the Jefferson County Democratic Party Executive Committee (the "Committee") have signed a trust agreement, creating the Wendell Ford Trust. Under numbered paragraph 2 of the trust agreement, the trust exists in part to contribute funds to the Jefferson County Democratic Party for administrative expenses only.

Based on the facts, your question can be stated as follows:

Does the Kentucky Registry of Election Finance regulate or restrict a trust created in part to enable the Jefferson County Democratic Party to pay its daily operating expenses, including rent, utilities, and the like and, if the Registry does regulate such a trust, what restrictions would the Registry place on the trust?

The short answer to your question is yes. First, the Registry would note Article 11 of the attached trust agreement which states: "This agreement shall be construed and regulated in all respects by the laws of the Commonwealth of Kentucky." Wendell Ford Trust, Article 11, at page 8, (emphasis added). Such a trust would not be a proper contributor, unless the Registry regulated it.

To address the question of how the Registry would regulate the above referenced trust, the Registry would look to the definition of the word "organization" since the term "trust" does not appear in KRS Chapter 121. In BLACK'S LAW DICTIONARY, 991 (5th Ed., 1979), the term "organization" is defined as follows: "Organization includes a ...trust..." Id. KRS 121.015(3)(c) defines a permanent committee or a political action committee as an organization. Therefore, the Registry would regulate the trust you describe as permanent committee or a political action committee. Under KRS 121.150, a political action committee is limited to a total contribution of \$2,500 per annum to a state executive committee and its subdivisions.

Since the Wendell Ford Trust is not registered with the Registry of Election Finance as a permanent committee, the money the Jefferson County Democratic Executive Committee accepted on behalf of this trust constitutes contributions from the individual person(s) who made the contributions. Because these contributions are from individuals instead of the unregistered trust, the Committee should account for all the contributions under KRS 121.150(10) for all contributions received before January 1, 1993, and KRS 121.150(11) for all contributions received by the Committee after January 1, 1993.

This opinion is based upon the course of action outlined in your letter. If you should have any more questions, please give us a call. Thank you.

Sincerely,

Timothy E. Shull
General Counsel

TES/dt